

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

<b>LYLE BREHM, et al.,</b>  <div style="text-align: center;"><b>Plaintiffs,</b></div>  <div style="text-align: center;"><b>v.</b></div>  <b>CAPITAL GROWTH FINANCIAL, INC., et al.,</b>  <div style="text-align: center;"><b>Defendants.</b></div>	) ) ) ) ) ) ) ) ) )	<b>8:07CV254</b>  <b>ORDER</b>
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This matter is before the court *sua sponte*. On May 27, 2010, the court entered an order requiring the plaintiffs to clarify the record with regard to the defendant Patrick Harrington. See [Filing No. 364](#). Specifically, the plaintiffs had made “service of a statement noting the death” of one of the defendants, Patrick Harrington. See [Filing No. 359](#) - Motion ¶ 4. In accordance with Federal Rule of Civil Procedure 25(a)(1), the court gave the plaintiffs until August 26, 2010, to move for substitution of the deceased party, if the claim was not automatically extinguished. In the alternative, the court warned the plaintiffs that the case may be dismissed against the deceased party, pursuant to [Fed. R. Civ. P. 41\(b\)](#). The plaintiffs did not respond to the May 27, 2010, order. Accordingly,

**IT IS ORDERED:**

**On or before October 14, 2010**, the plaintiffs shall show cause why Mr. Harrington should not be dismissed as a party, pursuant to [Fed. R. Civ. P. 41\(b\)](#). The show cause deadline will be terminated if the plaintiffs file a motion for substitution of parties, if appropriate in accordance with the provisions of [Fed. R. Civ. P. 25](#), or file a motion to voluntarily dismiss Mr. Harrington, in accordance with [Fed. R. Civ. P. 41\(a\)](#).

DATED this 16th day of September, 2010.

BY THE COURT:

s/ Thomas D. Thalken  
United States Magistrate Judge